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9553

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EXAMINER

SHIMIZU, MATSUICHIRO

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/777,078	CARISSIMO, ALESSANDRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Matsuichiro Shimizu	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-13, 17-21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-13 and 17-21 and 23-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

In view of the appeal brief<sup>1</sup> filed on 10/12/05, PROSECUTION IS HEREBY REOPENED. New Grounds of rejection are provided to claims 1-3,6-13,17-21 and 23-30 set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Furthermore, should applicant wish to file current Appeals Brief again, the examiner request the applicant to provide the following correction and addition:

- ( a ) Appendix A needs to be labeled under heading for section VIII of 37 CFR 41.37.
- ( b ) Also needs a heading for sections IX & X of 37 CFR 41.37 along with a statement of whether or not evidence or decisions exist.

***Response to Arguments***

Applicant's arguments with respect to claims 1-3, 6-13 and 17-21 and 23-30 have been considered but are moot in view of the new grounds of rejection.

Therefore, rejections of claims 1-3, 6-13 and 17-21 and 23-30 follow:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 9 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen et al. (5,814,968) in view of Sibbitt (5,999,088) and Schena et al. (6,448,979).

Regarding claims 1 and 9, Lovegreen discloses an electronic paging system (Fig. 5, col. 1, line 49-59, a system associated with paging coaster for seating notification) comprising; a receiver (col. 5, lines 8-21, paging coasters, rechargeable electronic devices); a transmitter (col. 1, line 49-59, restaurant owner transmits or pages by sending signals to paging coaster); and a software programmer (col. 6, lines 43-51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication) which uploads and downloads software to and from said transmitter and/or receiver using

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telecommunication lines (col. 6, lines 43–51, wire-line communication to plural stacked-up remote electronic devices or pagers; col. 6, lines 43–51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication). But Lovegreen does not teach a receiver with graphic display and said receiver storing information on how said user interacts with said receiver.

However, Sibbitt discloses, in the art of restaurant paging system, a receiver with a graphic display associated with restaurant menu items or advertisements (col. 1, lines 35–44, restaurant type pager; col. 1, lines 35–44, pager screen display of restaurant menu items, advertisements) for the purpose of providing a user-friendly system and enhancing the paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a graphic display in the device of Lovegreen because Lovegreen suggests display and Sibbitt teaches a graphic display for the purpose of providing a user-friendly system.

Likewise, Schena teaches, in the art of paging system, said receiver storing information on how said user interacts with said receiver (col. 2, lines 9–38, the scanner may be, for example, a two-way pager (col. 2, lines 10–13) stores (col. 2, lines 29–30) the user input or interface information (col. 2, lines 29–32)) for the purpose of enhancing the paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include said receiver storing information on how said user interacts with said in the device of Lovegreen because Lovegreen suggests a receiver with pager message and Schena teaches said receiver storing information on how said user interacts with said receiver for the purpose of enhancing the paging system.

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Regarding claim 29, Lovegreen teaches the system of claim 1 wherein said receiver is not stackable (col. 1, lines 52–55, receiver or paging coaster is given to customer and no longer stacked).

Regarding claim 30, Lovegreen teaches the system of claim 1 wherein said receiver is battery operated (col. 5, lines 18–22, electronic device 20 having rechargeable battery).

Claims 11 and 25–28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Schena as applied to claim 1 above, and further in view of Chuang (5,987,421).

All subject matters excluding said transmitter informs said receiver of queue status including updated information as to where a user is in the queue in claim 11 are disclosed in claim 1. However, Chuang discloses, in the art of restaurant paging system, said transmitter informs said receiver of queue status including updated information as to where a user is in the queue (col. 12, lines 53–60, reminding user of the time increment remaining) for the purpose of enhancing the paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include said transmitter informs said receiver of queue status including updated information as to where a user is in the queue in the device of Lovegreen in view of Sibbitt and Schena because Lovegreen in view of Sibbitt and Schena suggests a receiver with pager message and Chuang teaches said transmitter informs said receiver of queue status including updated information as to where a user is in the queue for the purpose of enhancing the paging system. Therefore rejection of the subject matters expressed in claim 11 are met by references and associated arguments applied to rejection of claim 1 and to rejection provided in the previous paragraph.

All subject matters in claims 25–26 are disclosed in claims 2–3. Therefore rejection of the subject matters expressed in claims 25–26 are met by references and associated arguments applied to rejection of claims 2–3.

Regarding claim 27, Lovegreen teaches the system of claim 11 wherein said transmitter comprises modes of communication with receivers (col. 1, line 49–59, restaurant owner transmits to receiver by sending signals to paging coaster).

Regarding claim 28, Lovegreen teaches the system of claim 11 wherein said charger comprises modes of communication with receiver and transmitters (col. 1, line 49–59, a charger 10 communicates with restaurant owner transmitter and paging receiver 20).

Claims 6, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Schena as applied to claim 1 above, and further in view of Diem (5,696,500).

Regarding claims 6, 13 and 17, Lovegreen in view of Sibbitt and Schena continues, as disclosed in claim 1, to disclose a display, and said transmitter can download software through remote access networks such as a telecommunication line or wireless network and said transmitter stores information. But Lovegreen in view of Sibbitt and Schena does not teach a keypad or touch panel display, and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider, and said transmitter stores information relating to interaction between said receiver and its users.

However, Diem teaches, in the art of paging system, a keypad or touch panel display (claim 6, col. 10, lines 33–36), and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider

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(claim 13, col. 3, lines 3–27, a set of multimedia commands for a software; col. 5, lines 34–48, diskette in the computer, a set of multimedia commands for a software, Fig. 1 – wireless transmission between antenna (110, 112), telecommunication line (col. 4, lines 5–15, a leased phone line)), and said transmitter stores information relating to interaction between said receiver and its users (col. 1, line 42 to col. 2, line 13, transmitter prepares and stores a set of multi-media commands to be used by said receiver) for the purpose of providing enhanced paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging and interactive entertainment in the device of Lovegreen in view of Sibbitt and Schena as evidenced by Diem because Lovegreen in view of Sibbitt and Schena suggests an electronic paging system comprising; a display, and said transmitter can download software through remote access networks such as a telecommunication line or wireless network and said transmitter stores information and Diem teaches a keypad or touch panel display, and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider and said transmitter stores information relating to interaction between said receiver and its users for the purpose of providing enhanced paging system.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Schena as applied to claim 1 above, and further in view of Okayama et al. (6,157,316).

Regarding claim 2, Lovegreen in view of Sibbitt discloses a software programmer (Lovegreen–col. 6, lines 43–51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication) which uploads and downloads software to and



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from said transmitter or receiver using wireless network. But Lovegreen in view of Sibbitt and Schena does not disclose a charger, which uploads and downloads software to and from said software programmer using telecommunication lines or a wireless network.

However, Okayama discloses, in the art of paging system, a charger, which uploads and downloads software to and from said software programmer using wire-line network (col. 6, lines 1-8, downloading to components of software programmer in the apparatus 103 via charger or PCMCIA I/F 8) for the purpose of automatically transferring software. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a charger, which uploads and downloads software to and from said software programmer using remote access networks such as wire-line network in the device of Lovegreen in view of Sibbitt and Schena because Lovegreen in view of Sibbitt and Schena suggests paging coasters to notify the customer to be seated at individual tables and Okayama teaches a charger which downloads software from said software programmer using remote access networks such as a wire-line network for the purpose of automatically installing the application program.

Furthermore, one of ordinary skill in the art recognizes wire-line network is analogous to wireless network or telecommunication lines for the purpose of transferring data or software remotely. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include wireless network or telecommunication lines in the device of Lovegreen in view of Sibbitt and Schena because Lovegreen in view of Sibbitt and Schena suggests wire-line network and

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one of ordinary skill in the art recognizes wireless network or telecommunication lines for the purpose of transferring data or software remotely.

Claims 7-8, 10 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Schena as applied to claim 2 above, and further in view of Okayama et al. (6,157,316).

Regarding claims 7-8, Lovegreen continues, as disclosed in claim 2, to disclose said receiver can download software and data from said charger (Fig. 5, base unit (10)) and through conductive contacts (col. 6, 43-54, reprogramming the electronic devices (20) via conductive contacts (col. 6, lines 35-42, physical contacts)).

Regarding claim 10, Lovegreen continues, as disclosed in claim 2, to disclose the system wherein said receiver can perform a wireless upload or download to said charger (col. 5, lines 8-21, paging coasters, walkie talkies, cellular telephones, other rechargeable electronic devices).

Regarding claim 18-21, Lovegreen continues, as disclosed in claim 2, to disclose a single charger can support many receivers at one time (Fig. 5, chargers (10a-b) and receivers or pagers (20a-f)), said charger can support both charges and stores software (col. 6, lines 43-51, reprogramming the electronic devices from said charger), said charger stores information relating to how and when said receiver was used (col. 5, lines 18-22, providing stored information to paging coasters), and said charger can download software through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a-b and 58a-b)).

Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt, Schena and Okayama et al. (6,157,316) as applied to claim 2 above, and further in view of Diem.

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Regarding claims 23–24, Lovegreen continues, as disclosed in claim 2, to disclose said charger downloads software (col. 6, lines 43–51, reprogramming the electronic device) through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a–b and 58a–b); col. 1, 1, lines 49–59, pager; col. 6, 43–54, a charger or base unit (10)). But Lovegreen in view of Sibbitt, Schena and Okayama does not disclose said charger can download software through telecommunication line and wireless service provider.

However, Diem discloses, in the art of paging system, said transmitter can download software (col. 3, lines 3–27, a set of multimedia commands for a software) through telecommunication line and wireless service provider (telecommunication line (col. 4, lines 5–15, a leased phone line); Fig. 1 – wireless transmission between antenna (110, 112) within the paging environment) as a hard media of downloading software. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include telecommunication line and wireless service provider in the device of Lovegreen in view of Sibbitt, Schena and Okayama as evidenced by Diem because Lovegreen in view of Sibbitt, Schena and Okayama suggests hard media and Diem teaches telecommunication line and wireless service provider as a hard media of downloading software.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Schena as applied to claim 1 above, and further in view of McNally et al. (5,850,214).

Regarding claim 12, Lovegreen continues, as disclosed in claim 1, to disclose paging coasters (col. 1, lines 49–59, paging coasters) to notify the customer to be

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seated at individual tables. But, Lovegreen et al. in view of Sibbitt and Schena does not disclose said transmitter tracks the last several pages that were made.

However, McNally discloses, in the art of restaurant paging system, said transmitter tracks the last several pages that were made (col. 5, lines 32-65, restaurant wait list mode of the clipboard acts as transmitter to transmit the waiting status to the pager, and updating the paged status by providing the light) to control the seating arrangement of the restaurant. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include said transmitter tracks the last several pages that were made in the device of Lovegreen et al. in view of Sibbitt and Schena because Lovegreen et al. in view of Sibbitt and Schena suggests paging coasters to notify the customer to be seated at individual tables and McNally teaches said transmitter tracks the last several pages that were made to control the seating arrangement in the restaurant.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Schena as applied to claim 1 above, and further in view of Hymel (6,114,969) and Wicks (5,942,969).

Regarding claim 3, Lovegreen continues, as disclosed in claim 1, to disclose a pager. But Lovegreen in view of Sibbitt and Schena does not disclose mode of paging, advertising and interactive entertainment using two-way communication with other receivers and devices.

However, Hymel discloses, in the art of paging system, mode of paging, advertising (col. 3, 16-30, message received; col. 4, lines 7-52, advertisement message followed by update message) using two-way communication (col. 7, lines 51-61, SCR transmit to the communication center) for the purpose of providing enhanced

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system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging, advertising using two way communication in the device of Lovegreen in view of Sibbitt and Schena as evidenced by Hymel because Lovegreen in view of Sibbitt and Schena suggests the pager and Hymel teaches mode of paging, advertising using two way communication for the purpose of providing enhanced paging system.

Likewise, Wicks discloses, in the art of paging system, mode of paging and interactive entertainment (col. 3, lines 39–50, and col. 5, lines 21–32, two-way pager and treasure hunt) for the purpose of providing enhanced paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging and interactive entertainment in the device of Lovegreen in view of Sibbitt and Schena as evidenced by Wicks because Lovegreen in view of Sibbitt and Schena suggests the pager and Wicks teaches mode of paging and interactive entertainment for the purpose of providing enhanced paging system.

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*Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is (703) 306-5841. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703-305-4704). The fax phone number for the organization where this application or proceeding is assigned is (703-305-3988).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu

January 9, 2006



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